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Memorandum of Conversation

Subject: The Moroccan ICJ Case Date: June 3, 1952

Participants: Ambassador Bonnet
The Under Secretary
EUR - Mr. Perkins
Mr. van Lasthem - French Embassy
WE - Mr. McBride

Copies to:
S (2)
U - Mr. Bruce ✓
S/A - Dr. Jessup
EUR - Mr. Perkins (2)
EUR - Mr. Williamson
L - Mr. Tate
NEA - Mr. Berry
AF - Mr. Cyr

Embassy, Paris
Legation, Tangier
Consul General - Casablanca
Embassy, The Hague

The Under Secretary stated that we had considered the French objections to our Rejoinder in the Moroccan ICJ case very carefully. Insofar as two of the three specific French objections were concerned, questions of fact seemed to be involved, and it had been agreed that our Legal Adviser, Mr. Fisher, would remedy these statements, insofar as there existed any error of fact, in his oral presentation. (This covers passages on pages 15 and 44 of the U.S. Rejoinder concerning the Council of Government and a statement attributed to M. Marchal respectively.) The Under Secretary added that alterations of our brief at this time, even if desirable--a point which was debatable--would create a greater furor than leaving our present brief unchanged. He referred also to the timing involved in such an operation. He said that inking out certain portions of the Rejoinder would likewise be unsatisfactory and would lead to even greater curiosity regarding our brief. Therefore, he said it had been decided to incorporate this statement in the beginning of the oral presentation, pointing out therein that the case in no way involves any attack by us on the French status in Morocco. With reference to the third point to which the French objected on pages 12 and 13 of our Rejoinder, the Under Secretary remarked that this was part of an argument which ran through a large section of the brief, and could hardly be changed (this is the French objection to our handling of their Ordre Public argument). Therefore, it has been decided that a statement along the lines envisaged above would be fairly satisfactory, and that Mr. Fisher would ask that it be printed and circulated with our brief.

Ambassador Bonnet replied that this would, of course, not be entirely satisfactory and that the Istiqlal Party, to stir up trouble, would continue to use our brief without Mr. Fisher's statement.

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The Under Secretary noted that it was impossible to meet the French objections to the general tone of our Rejoinder since this would require rewriting the entire document, and it was difficult to see how the whole tone could be altered, without materially weakening our argumentation. Mr. Perkins stated that if we withdrew our brief everyone would want to know why. Since the judges of the Court, certain members of Congress, and lawyers for the American interests involved already had copies, it would certainly be widely known what we had originally said. It would, therefore, appear that we had made the changes because of French pressure, a situation which would be very bad emotionally in the U.S. and elsewhere.

The Under Secretary gave a copy of the statement which we proposed to make to Ambassador Bonnet, stressing that it was a tentative draft which had been prepared very hastily in order to do everything possible to meet the French objections. He added that it would be published but that it might be changed somewhat before Mr. Fisher actually used it. Ambassador Bonnet stated that, subject to further study, the statement appeared to be fairly satisfactory but that it would, of course, not be used by those who wished the end of the Protectorate. The Under Secretary said that in this event the French would want to give publicity to the statement, and added that there was nothing in the brief in the way of any legal argument which would indicate that we desire the end of the Protectorate. He said that the passages on pages 12 and 13, to which the French objected, were based on a hypothetical case and that the purpose of our argument was simply a reductio ad absurdum of the French Ordre Public argument.

Ambassador Bonnet stressed that the U.S. arguments in this connection would, however, be taken as the U.S. official position. The Under Secretary said that the Secretary felt that the pertinent sentences in Mr. Fisher's proposed statement took care of this problem, because of our categoric statement therein that we continue to recognize and support the Protectorate.

Ambassador Bonnet said that the French had no objection to U.S. policy in North Africa but that it was our position in this case that was of concern. He said he had no objection to our using the Ordre Public argument provided the specific statements given on page 13 of the Rejoinder were not used, since the French Government very much wanted to avoid a political argument on this problem.

The Under Secretary stated that he wanted the Ambassador to know that it was certainly not the intention of the Legal Adviser to enter on a political discussion in his oral presentation. Mr. Perkins made the point that the Ordre Public argument had been originally raised in the French reply and, accordingly, we felt obliged to treat it in our Rejoinder. He added that we would never have raised this issue ourselves. Ambassador Bonnet repeated that his concern was exclusively political and not legal and that he was sure that

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that the French Legal Adviser would take care of this argument effectively in his oral presentation. He said he did not believe this part of our argument was necessary or added anything to our case. He said the French Government would, of course, do everything within its power to show that there was no basic differences of policy between France and the U.S. but that our Rejoinder in the Moroccan Court case gave France a very difficult public relations job in this connection.

The Under Secretary and Ambassador Bonnet discussed briefly the Ministers' talks on the North African question in Paris, and agreed that they had been productive in creating a better atmosphere on this question. In conclusion, the Ambassador said that he could not, of course, state that Paris would be satisfied with our statement, but promised to do his best to convince his Government that we had done everything possible on the French behalf. In closing the Under Secretary said that this matter had been taken care of personally by the Secretary and that we had given it exhaustive consideration.

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